

UNITED STATES CODE ANNOTATED
Title 43 Public Lands, Chapter 32
COLORADO RIVER BASIN PROJECT

Subchapter I-OBJECTIVES

Section

1501. Congressional declaration of purpose and policy.

Subchapter II- INVESTIGATIONS AND PLANNING

1511. Reconnaissance investigations by Secretary of the Interior; reports; 10-year moratorium on water importation studies.
- 1511a. Cooperation and participation by Secretary of Army with Federal, State, and local agencies.
1512. Mexican Water Treaty.
1513. Importation of water; protection of exporting areas.
1514. Authorization of appropriations.

Subchapter III-AUTHORIZED UNITS; PROTECTION OF EXISTING USES

1521. Central Arizona Project.
- (a) Construction and operation; Granite Reef aqueduct and pumping plants; Orme Dam and Reservoir; Buttes Dam and Reservoir; Hooker Dam and Reservoir; Charleston Dam and Reservoir; Tucson aqueducts and pumping plants; Salt-Gila aqueducts; related and appurtenant works.
 - (b) Limitation on water diversions in years of insufficient main stream Colorado River water.
 - (c) Augmentation of water supply of the Colorado River system.
1522. Orme Dam and Reservoir.
- (a) Acquisition of lands of the Salt River Pima-Maricopa Indian Community and the Fort McDowell-Apache Indian Community; relocation; eminent domain.
 - (b) Rights of former owners to use or lease land.
 - (c) Addition of land to Fort McDowell Indian Reservation.
 - (d) Recreational facilities developed and operated by Indian communities along Orme Reservoir shoreline.
 - (e) Exemption of funds from State and Federal income taxes.
1523. Power requirements of Central Arizona Project and augmentation of Lower Colorado River Basin Development Fund.
- (a) Engineering and economic studies.
 - (b) Construction of thermal generating powerplants; agreements for acquisition by United States of portions of plant capacity.
 - (c) Recommended plan; submission to Congress.
 - (d) Apportionment of water for Arizona plants diverted above Lee Ferry.
1524. Water furnished from Central Arizona Project.
- (a) Restriction on use of water for irrigation.
 - (b) Contracts with municipal and industrial users.
 - (c) Water conservation.
 - (d) Water exchanges.
 - (e) Water shortage priorities.
 - (f) New Mexico users; water exchange contracts.

- 1525. Cost of main stream water of the Colorado River
- 1526. Water salvage programs.
- 1527. Fish and wildlife conservation and development.
- 1528. Authorization of appropriations.

Subchapter IV-LOWER COLORADO RIVER BASIN DEVELOPMENT FUND

- 1541. Allocation of costs; repayment.
- 1542. Repayment capability of Indian lands.
- 1543. Lower Colorado River Basin Development Fund.
 - (a) Establishment.
 - (b) Appropriations.
 - (c) Revenues credited to fund.
 - (d) Use of revenue funds.
 - (e) Appropriation by Congress required for construction of works.
 - (f) Return of costs and interest.
 - (g) Repayment of costs.
 - (h) Interest rate.
 - (i) Annual budgets; submission to Congress.
- 1544. Annual report to Congress.

Subchapter V-GENERAL PROVISIONS

- 1551. Construction of Colorado River Basin Act.
 - (a) Effect on other laws.
 - (b) Reports to Congress.
 - (c) Compliance of Federal officers and agencies.
- 1552. Criteria for long-range operation of reservoirs.
 - (a) Promulgation by Secretary; order of priorities.
 - (b) Submittal of criteria for review and comment; publication; report to Congress.
 - (c) Powerplant operations.
- 1553. Upper Colorado River Basin; rights to consumptive uses not to be reduced or prejudiced; duties and powers of Commission not impaired.
- 1554. Federal reclamation laws.
- 1555. Federal Power Act inapplicable to Colorado River between Hoover Dam and Glen Canyon Dam.
- 1556. Definitions.

Cross References

Compliance with Colorado law in diversion and storage of water for projects constructed under authority of this chapter if located within and intended for benefit of Colorado only, see section 620c-1 of this title.

Construction of Colorado River Basin Project Act with provisions relating to Colorado River Basin salinity control, see section 1597 of this title.

Development of water resources plan for western United States, cooperation of Secretary of Army with federal, state, and local agencies, see section 1511a of this title.

Subchapter I-OBJECTIVES

§ 1501. Congressional declaration of purpose and policy

(a) It is the object of this chapter to provide a program for the further comprehensive development of the water resources of the Colorado River Basin and for the provision of additional and adequate water supplies for use in the Upper as well as in the lower Colorado River Basin. This program is declared to be for the purposes, among others, of regulating the flow of the Colorado River; controlling floods; improving navigation; providing for the storage and delivery of the waters of the Colorado River for reclamation of lands, including supplemental water supplies, and for municipal, industrial, and other beneficial purposes; improving water quality; providing for basic public outdoor recreation facilities; improving conditions for fish and wildlife, and the generation and sale of electrical power as an incident of the foregoing purposes.

(b) It is the policy of the Congress that the Secretary of the Interior (hereinafter referred to as the "Secretary") shall continue to develop, after consultation with affected States and appropriate Federal agencies, a regional water plan, consistent with the provisions of this chapter and with future authorizations, to serve as the framework under which projects in the Colorado River Basin may be coordinated and constructed with proper timing to the end that an adequate supply of water may be made available for such projects, whether heretofore, herein, or hereafter authorized.

(Pub.L. 90-537, Title I, § 102, Sept. 30, 1968, 82 Stat. 886)

Historical Note

References in Text. This chapter, referred to in text, was in the original "this Act", meaning Pub.L. 90-537, Sept. 30, 1968, 82 Stat. 885, as amended, known as the Colorado River Basin Project Act, which enacted this chapter and sections 616aa-1, 620a-1, 620a-2, 620c-1, and 620d-1 of this title, amended sections 616hh, 620, and 620a of this title, and enacted provisions set out as notes under sections 620, 620k, and 1501 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables volume.

Short Title. Section 101 of Pub.L. 90-537 provided: "That this Act [enacting this chapter and sections 616aa-1, 620a-1, 620a-2, 620c-1, and 620d-1 of this title, amending sections 616hh, 620, and 620a of this title, and enacting provisions set out as notes under this section and sections 620 and 620k of this title] may be cited as the 'Colorado River Basin Project Act'."

Legislative History. For legislative history and purpose of Pub.L. 90-537, see 1968 U.S. Code Cong. and Adm. News, p. 3666.

Subchapter II- INVESTIGATIONS AND PLANNING

Cross References

Allocation of costs for lower Colorado River Basin projects, see section 1541 of this title.

§ 1511. Reconnaissance investigations by Secretary of the Interior; reports; 10-year moratorium on water importation studies

Pursuant to the authority set out in the Reclamation Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto, and the provisions of the Water Resources Planning Act of July 22, 1965, 79 Stat. 244, as amended [42 U.S.C.A. § 1962 et. seq.], with respect to the coordination of studies, investigations and assessments, the Secretary of the Interior shall conduct full and complete reconnaissance investigations for the purpose of developing a general plan to meet the future water needs of the Western United States. Such investigations shall include the long-range water supply available and the long-range water requirements in each water resource region of the Western United States. Progress reports in connection with these investigations shall be submitted to the President, the National Water Commission (while it is in existence), the Water Resources Council, and to the Congress every two years. The first of such reports shall be submitted on or before June 30, 1971, and a final reconnaissance report shall be submitted not later than June 30, 1977: *Provided*, That for a period of ten years from November 2, 1978, any Federal official shall not undertake reconnaissance studies of any plan

for the importation of water into the Colorado River Basin from any other natural river drainage basin lying outside the States of Arizona, California, Colorado, New Mexico, and those portions of Nevada, Utah, and Wyoming which are in the natural drainage basin of the Colorado River.

(Pub.L. 90-537, Title II, § 201, Sept. 30, 1968, 82 Stat. 886; Pub.L. 95-578, § 10, Nov. 2, 1978, 92 Stat. 2472; zpub.L. 96-375, § 10, Oct. 3, 1980, 94 Stat. 1507.)

Historical Note

References in Text. The Reclamation Act of June 17, 1902, 32 Stat. 388, referred to in text, is classified generally to chapter 12 (section 371 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables volume.

The Water Resources Planning Act, as amended, referred to in text, is Pub.L. 89-80, July 22, 1965, 79 Stat. 244, as amended, which is classified generally to chapter 19B (section 1962 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1962 of Title 42 and Tables volume.

1980 Amendment. Pub.L. 96-375 substituted "any Federal official" for "the Secretary" in the proviso.

1978 Amendment. Pub.L. 95-578 substituted "November 2, 1978" for "September 30, 1968".

Termination of National Water Commission. The National Water Commission, established by Pub.L. 90-515, Sept. 26, 1968, 82 Stat. 868, terminated on Sept. 26, 1973.

Legislative History. For legislative history and purpose of Pub.L. 90-537, see 1968 U.S. Code Cong. and Adm. News, p. 3666. See, also, Pub.L. 95-578, 1978 U.S. Code Cong. and Adm. News, p. 5542.

Cross References

Importation of water from sources outside river system, protection of exporting area, see section 1513 of this title.

Mexican Water Treaty, obligation of water augmentation project to satisfy its requirements, see section 1512 of this title.

Repayment of costs for units below Lee Ferry from lower Colorado River Basin Development Fund, see section 1543 of this title.

§ 1511a. Cooperation and participation by Secretary of Army with Federal, State, and local agencies

The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate and participate with concerned Federal, State, and local agencies in preparing the general plan for the development of the water resources of the western United States authorized by the Colorado River Basin Project Act [43 U.S.C.A. § 1501 et seq.].

(Pub.L. 91-611, Title II, § 203, Dec. 31, 1970, 84 Stat. 1828.)

Historical Note

References in Text. The Colorado River Basin Project Act, referred to in text, is Pub.L. 90-537, Sept. 30, 1968, 82 Stat. 885, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables volume.

Codification. Section was not enacted as part of the Colorado River Basin project Act which comprises this chapter.

§ 1512. Mexican Water Treaty

The Congress declares that the satisfaction of the requirements of the Mexican Water Treaty from the Colorado River constitutes a national obligation which shall be the first obligation of any water augmentation project planned pursuant to section 1511 of this title and authorized by the Congress. Accordingly, the States of the Upper Division (Colorado, New Mexico, Utah, and Wyoming) and the States of the Lower Division (Arizona, California, and Nevada) shall be relieved from all obligations which may have been imposed upon them by article III(c) of the Colorado River Compact so long as the Secretary shall determine and proclaim that means are available and in operation which augment the water supply of the Colorado River system in such quantity as to satisfy the requirements of the Mexican Water Treaty together with any losses of water associated with the performance of that treaty: *Provided*, That the satisfaction of the requirements of the Mexican Water Treaty (Treaty Series 994, 59 Stat. 1219), shall be from the waters of the Colorado River pursuant to the treaties, laws, and compacts presently relating thereto, until such time as a feasibility plan showing the most economical means of augmenting the water supply available in the Colorado River below Lee Ferry by two and one-half million acre-feet shall be authorized by the Congress and is in operation as provided in this chapter.

(Pub.L. 90-537, Title II, § 202, Sept. 30, 1968, 82 Stat. 887)

Cross References

Measures necessary to replace certain waters resulting from desalting plants undertaken independently from national obligation under this section, see section 1571 of this title.

Release of water from Lake Powell to supply deficiency described in Colorado River Compact unnecessary if proclamation issued under this section, see section 1552 of this title.

§ 1513. Importation of water; protection of exporting areas

(a) In the event that the Secretary shall, pursuant to section 1511 of this title, plan works to import water into the Colorado River system from sources outside the natural drainage areas of the system, he shall make provision for adequate and equitable protection of the interests of the States and areas of origin, including assistance from funds specified in this chapter, to the end that water supplies may be available for use in such States and areas of origin adequate to satisfy their ultimate requirements at prices to users not adversely affected by the exportation of water to the Colorado River system.

(b) All requirements, present or future, for water within any State lying wholly or in part within the drainage area of any river basin from which water is exported by works planned pursuant to this chapter shall have a priority of right in perpetuity to the use of the waters of that river basin, for all purposes, as against the uses of the water delivered by means of such exportation works, unless otherwise provided by interstate agreement.

(Pub.L. 90-537, Title II, § 203, Sept. 30, 1968, 82 Stat. 887.)

§ 1514. Authorization of appropriations

There are hereby authorized to be appropriated such sums as are required to carry out the purposes of this subchapter.

(Pub.L. 90-537, Title II, § 204, Sept. 30, 1968, 82 Stat. 887.)

Subchapter III-AUTHORIZED UNITS; PROTECTION OF EXISTING USES

Cross References

Eligibility to receive irrigation water for ten-year period upon terms and conditions established pursuant to provisions of reclamation law, see section 390rr of this title.

Fish and wildlife conservation and recreational opportunity development, see section 1527 of this title.

Lower Colorado River Basin Development Fund, appropriations and revenues credited to and units subject to return of costs from general funds, see section 1543 of this title.

§ 1521. Central Arizona Project

(a) Construction and operation; Granite-Reef aqueduct and pumping plants; Orme Dam and Reservoir; Buttes Dam and Reservoir; Hooker Dam and Reservoir; Charleston Dam and Reservoir; Tucson aqueducts and pumping plants; Salt-Gila aqueducts; related and appurtenant works

For the purposes of furnishing irrigation water and municipal water supplies to the water-deficient areas of Arizona and western New Mexico through direct diversion or exchange of water, control of floods, conservation and development of fish and wildlife resources, enhancement of recreation opportunities, and for other purposes, the Secretary shall construct, operate, and maintain the Central Arizona Project, consisting of the following principal works: (1) a system of main conduits and canals, including a main canal and pumping plants (Granite-Reef aqueduct and pumping plants), for diverting and carrying water from Lake Havasu to Orme Dam or suitable alternative, which system may have a capacity of 3,000 cubic feet per second or whatever lesser capacity is found to be feasible: *Provided*, That any capacity in the aqueduct in excess of 2,500 cubic feet per second shall be utilized for the conveyance of Colorado River water only when Lake Powell is full or releases of water are made from Lake Powell to prevent the reservoir from exceeding elevation 3,700 feet above mean sea level or when releases are made pursuant to the proviso in section 1552(a)(3) of this title: *Provided further*, That the costs of providing any capacity in excess of 2,500 cubic feet per second shall

be repaid by those funds available to Arizona pursuant to the provision of section 1543(f) of this title, or by funds from sources other than the development fund;

(2) Orme Dam and Reservoir and power-pumping plant or suitable alternative; (3) Buttes Dam and Reservoir, which shall be so operated as not to prejudice the rights of any user in and to the waters of the Gila River as those rights are set forth in the decree entered by the United States District Court for the District of Arizona on June 29, 1935, in United States against Gila Valley Irrigation District of Arizona on June 29, 1935, in United States against Gila Valley Irrigation District and others (Globe Equity Numbered 59); (4) Hooker Dam and Reservoir or suitable alternative, which shall be constructed in such a manner as to give effect to the provisions of subsection (f) of section 1524 of this title; (5) Charleston Dam and Reservoir; (6) Tucson aqueducts and pumping plants; (7) Salt-Gila aqueducts; (8) related canals, regulating facilities, hydroelectric powerplants, and electrical transmission facilities required for the operation of said principal works; (9) related water distribution and drainage works; and (10) appurtenant works.

(b) Limitation on water diversions in years of insufficient main stream Colorado River water

Article II (B)(3) of the decree of the Supreme Court of the United States in Arizona against California (376 U.S. 340) shall be so administered that in any year in which, as determined by the Secretary, there is insufficient main stream Colorado River water available for release to satisfy annual consumptive use of seven million five hundred thousand acre-feet in Arizona, California, and Nevada, diversions from the main stream for the Central Arizona Project shall be so limited as to assure the availability of water in quantities sufficient to provide for the aggregate annual consumptive use by holders of present perfected rights, by other users in the State of California served under existing contracts with the United States by diversion works heretofore constructed, and by other existing Federal reservations in that State, of four million four hundred thousand acre-feet of mainstream water, and by users of the same character in Arizona and Nevada. Water users in the State of Nevada shall not be required to bear shortages in any proportion greater than would have been imposed in the absence of this subsection. This subsection shall not affect the relative priorities, among themselves, of water users in Arizona, Nevada, and California which are senior to diversions for the Central Arizona Project, or amend any provisions of said decree.

(c) Augmentation of water supply of the Colorado River system

The limitation stated in subsection (b) of this section shall not apply so long as the Secretary shall determine and proclaim that means are available and in operation which augment the water supply of the Colorado River system in such quantity as to make sufficient mainstream water available for release to satisfy annual consumptive use of seven million five hundred thousand acre-feet in Arizona, California, and Nevada.
(Pub.L. 90-537, Title III, § 301, Sept. 30, 1968, 82 Stat. 887.)

§ 1522. Orme Dam and Reservoir

(a) Acquisition of lands of the Salt River Pima-Maricopa Indian Community and the Fort McDowell-Apache Indian Community; relocation; eminent domain

The Secretary shall designate the lands of the Salt River Pima-Maricopa Indian Community, Arizona, and the Fort McDowell-Apache Indian Community, Arizona, or interests therein, and any allotted lands or interests therein within said communities which he determines are necessary for use and occupancy by the United States for the construction, operation, and maintenance of Orme Dam and Reservoir, or alternative. The Secretary shall offer to pay the fair market value of the lands and interests designated, inclusive of improvements. In addition, the Secretary shall offer to pay toward the cost of relocating or replacing such improvements not to exceed \$500,000 in the aggregate, and the amount offered for the actual relocation or replacement of a residence shall not exceed the difference between the fair market value of the residence and \$8,000. Each community and each affected allottee shall have six months in which to accept or reject the Secretary's offer. If the Secretary's offer is rejected,

the United State may proceed to acquire the property interests involved through eminent domain proceedings in the United States District Court for the District of Arizona under 40 U.S.C.A., Sections 257 and 258a. Upon acceptance in writing of the Secretary's offer, or upon the filing of a declaration of taking in eminent domain proceedings, title to the lands or interests involved, and the right to possession thereof, shall vest in the United States. Upon a determination by the Secretary that all or any part of such lands or interests are no longer necessary for the purpose for which acquired, title to such lands or interests shall be restored to the appropriate community upon repayment to the Federal Government of the amounts paid by it for such lands.

(b) Rights of former owners to use or lease land

Title to any land or easement acquired pursuant to this section shall be subject to the right of the former owner to use or lease the land for purposes not inconsistent with the construction, operation, and maintenance of the project, as determined by, and under terms and conditions prescribed by, the Secretary. Such right shall include the right to extract and dispose of minerals. The determination of fair market value under subsection (a) of this section shall reflect the right to extract and dispose of minerals and all other uses permitted by this section.

(c) Addition of land to Fort McDowell Indian Reservation

In view of the fact that a substantial portion of the lands of the Fort McDowell Mojave-Apache Indian Community will be required for Orme Dam and Reservoir, or alternative, the Secretary shall, in addition to the compensation provided for in subsection (a) of this section, designate and add to the Fort McDowell Indian Reservation twenty-five hundred acres of suitable lands in the vicinity of the reservation that are under the jurisdiction of the Department of the Interior in township 4 north, range 7 east; township 5 north, range 7 east; and township 3 north, range 7 east, Gila and Salt River base meridian, Arizona. Title to lands so added to the reservation shall be held by the United States in trust for the Fort McDowell Mojave-Apache Indian Community.

(d) Recreational facilities developed and operated by Indian communities along Orme Reservoir shoreline

Each community shall have a right, in accordance with plans approved by the Secretary, to develop and operate recreational facilities along the part of the shoreline of the Orme Reservoir located on or adjacent to its reservation, including land added to the Fort McDowell Reservation as provided in subsection (b) of this section, subject to rules and regulations prescribed by the Secretary governing the recreation development of the reservoir. Recreation development of the entire reservoir and federally owned lands under the jurisdiction of the Secretary adjacent thereto shall be in accordance with a master recreation plan approved by the Secretary. The members of each community shall have nonexclusive personal rights to hunt and fish on or in the reservoir without charge to the same extent they are now authorized to hunt and fish, but no community shall have the right to exclude others from the reservoir except by control of access through its reservation or any right to require payment by members of the public except for the use of community lands or facilities.

(e) Exemption of funds State and Federal income taxes

All funds paid pursuant to this section, and any per capita distribution thereof, shall be exempt from all forms of State and Federal income taxes.

(Pub.L. 90-537, Title III, § 302, Sept. 30, 1968, 82 Stat. 888.)

Cross References

Fish and wildlife conservation and recreational opportunity development, see section 1527 of this title.

§ 1523. Power requirements of Central Arizona Project and augmentation of Lower Colorado River Basin Development Fund.

(a) Engineering and economic studies

The Secretary is authorized and directed to continue to a conclusion appropriate engineering and economic studies and to recommend the most feasible plan for the construction and operation of hydroelectric generating and transmission facilities, the purchase of electrical energy, the purchase of entitlement to electrical plant capacity, or any combination thereof, including participation, operation, or construction by non-Federal entities, for the purpose of supplying the power requirements of the Central Arizona Project and augmenting the Lower Colorado River Basin Development Fund: *Provided*, That nothing in this section or in this chapter contained shall be construed to authorize the study or construction of any dams on the main stream of the Colorado River between Hoover Dam and Glen Canyon Dam.

(b) Construction of thermal generating powerplants; agreements for acquisition by United States of portions of plant capacity

If included as a part of the recommended plan, the Secretary may enter into agreements with non-Federal interests proposing to construct thermal generating powerplants whereby the United States shall acquire the right to such portions of their capacity, including delivery of power and energy over appurtenant transmission facilities to mutually agreed upon delivery points, as he determines is required in connection with the operation of the Central Arizona Project. When not required for the Central Arizona Project, the power and energy acquired by such agreements may be disposed of intermittently by the Secretary for other purposes at such prices as he may determine, including its marketing in conjunction with the sale of power and energy from Federal powerplants in the Colorado River system so as to produce the greatest practicable amount of power and energy that can be sold at firm power and energy rates. The agreements shall provide, among other things, that-

(1) the United States shall pay not more than that portion of the total construction cost, exclusive of interest during construction, of the powerplants, and of any switchyards and transmission facilities serving the United States, as is represented by the ratios of the respective capacities to be provided for the United States therein to the total capacities of such facilities. The Secretary shall make the Federal portion of such costs available to the non-Federal interests during the construction period, including the period of preparation of designs and specifications, in such installments as will facilitate a timely construction schedule, but no funds other than for preconstruction activities shall be made available by the Secretary until he determines that adequate contractual arrangements have been entered into between all the affected parties covering land, water, fuel supplies, power (its availability and use), rights -of-way, transmission facilities and all other necessary matters for the thermal generating powerplants;

(2) annual operation and maintenance costs shall be apportioned between the United States and the non-Federal interests on an equitable basis taking into account the ratios determined in accordance with the foregoing clause (1): *Provided, however*, That the United States shall share on the foregoing basis in the depreciation component of such costs only to the extent of provision for depreciation on replacements financed by the non-Federal interests;

(3) the United States shall be given appropriate credit for any interests in Federal lands administered by the Department of the Interior that are made available for the powerplants and appurtenances;

(4) costs to be borne by the United States under clauses (1) and (2) shall not include (a) interest and interest during construction, (b) financing charges, (c) franchise fees, and (d) such other costs as shall be specified in the agreement.

(c) Recommended plan; submission to Congress

No later than one year from September 30, 1968, the Secretary shall submit his recommended plan to the Congress. Except as authorized by subsection (b) of this section, such plan shall not become effective until approved by the Congress.

(d) Apportionment of water for Arizona plants diverted above Lee Ferry

If any thermal generating plant referred to in subsection (b) of this section is located in Arizona, and if it is served by water diverted from the drainage area of the Colorado River system above Lee Ferry, other provisions of existing law to the contrary notwithstanding, such consumptive use of water shall be a part of the fifty thousand acre-feet per annum apportioned to the State of Arizona by article III (a) of the Upper Colorado River Basin Compact (63 Stat. 31).

(Pub.L. 90-537, Title III, § 303, Sept. 30, 1968, 82 Stat. 889).

Notes of Decisions

1. Construction with other laws

Section 485h of this title requiring that preference be given to certain public entities in governmental sales or leases of electric power or power privileges applied to federal sales of thermally generated electrical power under this section. *Arizona Power Pooling Ass'n v. Morton*, C.A.Ariz.1975, 527 F.2d 721, certiorari denied 96 S.Ct. 1506, 425 U.S. 911, 47 L.Ed.2d 761.

2. Injunction

District court did not abuse its discretion in refusing to issue preliminary injunction to require Secretary of Interior to sell excess power supplies generated pursuant to this chapter to cities where evidence showed that cities did not offer to buy federal power until approximately three years after government had contracted to sell power, even though one of cities sat on committee soliciting offers and was therefore aware of impending sale. *City of Anaheim, Cal. v. Kleppe*, C.A. Ariz. 1978, 590 F.2d 285.

3. Review

Decision of Secretary of the Interior not to offer preference to public entities in sales of electric power in connection with Central Arizona Project was reviewable under Administrative Procedure Act, section 551 et seq. and 701 et seq. of Title 5. *Arizona Power Pooling Ass'n v. Morton*, C.A.Ariz. 1975, 527 F.2d 721, certiorari denied 96 S.Ct. 1506, 425 U.S. 911, 47 L.Ed.2d 761.

§ 1524. Water furnished from Central Arizona Project

(a) Restriction on use of water for Irrigation

Unless and until otherwise provided by Congress, water from the Central Arizona Project shall not be made available directly or indirectly for the irrigation of lands not having a recent irrigation history as determined by the Secretary, except in the case of Indian lands, national wildlife refuges, and, with the approval of the Secretary, State-administered wildlife management areas.

(b) Contracts with municipal and industrial users

(1) Irrigation and municipal and industrial water supply under the Central Arizona Project within the State of Arizona may, in the event the Secretary determines that it is necessary to effect repayment, be pursuant to master contracts with organizations which have power to levy assessments against all taxable real property within their boundaries. The terms and conditions of contracts or other arrangements whereby each such organization makes water from the Central Arizona Project available to users within its boundaries shall be subject to the Secretary's approval, and the United States shall, if the Secretary determines such action is desirable to facilitate carrying out the provisions of this chapter, have the right to require that it be a party to such contracts or that contracts subsidiary to the master contracts be entered into between the United States and any user. The provisions of this clause (1) shall not apply to the supplying of water to an Indian tribe for use within the boundaries of an Indian reservation.

(2) Any obligation assumed pursuant to section 485h(d) of this title with respect to any project contract unit or irrigation block shall be repaid over a basic period of not more than fifty years; any water service provided pursuant to section 485h(e) of this title may be on the basis of delivery of water for a period of fifty years and for the delivery of such water at an identical price per acre-foot for water of the same class at the several points of delivery from the main canals and conduits and from such other points of delivery as the Secretary may designate; and long-term contracts relating to irrigation water supply shall provide that water made available thereunder may be made

available by the Secretary for municipal or industrial purposes if and to the extent that such water is not required by the contractor for irrigation purposes.

(3) Contracts relating to municipal and industrial water supply under the Central Arizona Project may be made without regard to the limitations of the last sentence of section 485h(c) of this title; may provide for the delivery of such water at an identical price per acre-foot for water of the same class at the several points of delivery from the main canals and conduits; and may provide for repayment over a period of fifty years if made pursuant to clause (1) of said section and for the delivery of water over a period of fifty years if made pursuant to clause (2) thereof.

(c) Water conservation

Each contract under which water is provided under the Central Arizona Project shall require that (1) there be in effect measures, adequate in the judgment of the Secretary, to control expansion of irrigation from aquifers affected by the irrigation in the contract service area; (2) the canals and distribution systems through which water is conveyed after its delivery by the United States to the contractors shall be provided and maintained with linings adequate in his judgment to prevent excessive conveyance losses; and (3) neither the contractor nor the Secretary shall pump or permit others to pump ground water from within the exterior boundaries of the service area of a contractor receiving water from the Central Arizona Project for any use outside said contractor's service area unless the Secretary and such contractor shall agree, or shall have previously agreed, that a surplus of ground water exists and that drainage is or was required. Such contracts shall be subordinate at all times to the satisfaction of all existing contracts between the Secretary and users in Arizona heretofore made pursuant to the Boulder Canyon Project Act (45 Stat. 1057) [43 U.S.C.A. § 617 et. seq.].

(d) Water exchanges

The Secretary may require in any contract under which water is provided from the Central Arizona Project that the contractor agree to accept main stream water in exchange for or in replacement of existing supplies from sources other than the main stream. The Secretary shall so require in the case of users in Arizona who also use water from the Gila River system to the extent necessary to make available to users of water from the Gila River system in New Mexico additional quantities of water as provided in and under the conditions specified in subsection (f) of this section: *Provided*, That such exchanges and replacements shall be accomplished without economic injury or cost to such Arizona contractors.

(e) Water shortage priorities

In times of shortage or reduction of main stream Colorado River water for the Central Arizona Project, as determined by the Secretary, users which have yielded water from other sources in exchange for main stream water supplied by that project shall have a first priority to receive main stream water, as against other users supplied by that project which have not so yielded water from other sources, but only in quantities adequate to replace the water so yielded.

(f) New Mexico users; water exchange contracts

(1) In the operation of the Central Arizona Project, the Secretary shall offer to contract with water users in New Mexico for water from the Gila River, its tributaries and underground water sources in amounts that will permit consumptive use of water in New Mexico of not to exceed an annual average in any period of ten consecutive years of eighteen thousand acre-feet, including reservoir evaporation, over and above the consumptive uses provided for by article IV of the decree of the Supreme Court of the United States in Arizona against California (376 U.S. 340). Such increased consumptive uses shall not begin until, and shall continue only so long as, delivery of Colorado River water to downstream Gila River users in Arizona is being accomplished in accordance with this chapter, in quantities sufficient to replace any diminution of their supply resulting from such diversion from the Gila River,

its tributaries and underground water sources. In determining the amount required for this purpose full consideration shall be given to any differences in the quality of the waters involved.

(2) The Secretary shall further offer to contract with water users in New Mexico for water from the Gila River, its tributaries, and underground water sources in amounts that will permit consumptive uses of water in New Mexico of not to exceed an annual average in any period of ten consecutive years of an additional thirty thousand acre-feet, including reservoir evaporation. Such further increases in consumptive use shall not begin until, and shall continue only so long as, works capable of augmenting the water supply of the Colorado River system have been completed and water sufficiently in excess of two million eight hundred thousand acre-feet per annum is available from the main stream of the Colorado River for consumptive use in Arizona to provide water for the exchanges herein authorized and provided. In determining the amount required for this purpose full consideration shall be given to any differences in the quality of the waters involved.

(3) All additional consumptive uses provided for in clauses (1) and (2) of this subsection shall be subject to all rights in New Mexico and Arizona as established by the decree entered by the United States District Court for the District of Arizona on June 29, 1935, in United States against Gila Valley Irrigation District and others (Globe Equity Numbered 59) and to all other rights existing on September 30, 1968, in New Mexico and Arizona to water from the Gila River, its tributaries, and underground water sources, and shall be junior thereto and shall be made only to the extent possible without economic injury or cost to the holders of such rights.

(Pub.L. 90-537, Title III, § 304, Sept. 30, 1968, 82 Stat. 891.)

Historical Note

References in Text. This chapter, referred to in subsecs. (b)(1) and (f)(1), was in the original "this Act", meaning Pub.L. 90-537, Sept. 30, 1968, 82 Stat. 885, as amended, known as the Colorado River Basin Project Act, which enacted this chapter and sections 616aa-1, 620a-1, 620a-2, 620c-1, and 620d-1 of this title, amended sections 616hh, 620, and 620a of this title, and enacted provisions set out as notes under sections 620, 620k, and 1501 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables volume.

The Boulder Canyon Project Act, referred to in subsec. (c), is Act Dec. 21, 1928, c. 42, 45 Stat. 1057, as amended, which is classified generally to subchapter I (section 617 et seq.) of chapter 12A of this title. For complete classification of this Act to the Code, see section 617t of this title and Tables volume.

Codification. Subsec. (g) of this section, which restricted the use of water from the projects authorized by this chapter for the production of basic agricultural commodities on newly irrigated lands for a period of ten years from Sept. 30, 1968, was omitted.

Cross References

Hooker Dam and Reservoir constructed to give effect to provision of this section on consumptive use of water users in New Mexico, see section 1521 of this title.

Use of Lower Colorado River Basin Development Fund to reimburse water users in State of Arizona, see section 1543 of this title.

§ 1525. Cost of main stream water of the Colorado River

To the extent that the flow of the main stream of the Colorado River is augmented in order to make sufficient water available for release, as determined by the Secretary pursuant to article II (b)(1) of the decree of the Supreme Court of the United States in Arizona against California (376 U.S. 340), to satisfy annual consumptive use of two million eight hundred thousand acre-feet in Arizona, four million four hundred thousand acre-feet in California, and three hundred thousand acre-feet in Nevada, respectively, the Secretary shall make such water available to users of main stream water in those States at the same costs (to the extent that such costs can be made comparable through the nonreimbursable allocation to the replenishment of the deficiencies occasioned by satisfaction of the Mexican Treaty burden as herein provided and financial assistance from the development fund established by section 1543 of this title) and on the same terms as would be applicable if main stream water were available for release in the quantities required to supply such consumptive use.

(Pub.L. 90-537, Title III, § 305, Sept. 30, 1968, 82 Stat. 893.)

§ 1526. Water salvage programs

The Secretary shall undertake programs for water salvage and ground water recovery along and adjacent to the main stream of the Colorado River. Such programs shall be consistent with maintenance of a reasonable degree of undisturbed habitat for fish and wildlife in the area, as determined by the Secretary.
(Pub.L. 90-537, Title III, § 306, Sept. 30, 1968, 82 Stat. 893).

§ 1527. Fish and wildlife conservation and development

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the project works authorized pursuant to this subchapter shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213) [16 U.S.C.A. § 4601-12 et seq.], except as provided in section 1522 of this title.

(Pub.L. 90-537, Title III, § 308, Sept. 30, 1968, 82 Stat. 893)

Historical Note

References in Text. The Federal Water Project Recreation Act, referred to in text, is Pub.L. 89-72, July 9, 1965, 79 Stat. 213, as amended, which is classified principally to part C (section 4601-12 et. seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 4601-12 of Title 16 and Tables volume.

§ 1528. Authorization of appropriations

(a) There is hereby authorized to be appropriated for construction of the Central Arizona Project, including prepayment for power generation and transmission facilities but exclusive of distribution and drainage facilities for non-Indian lands, \$832,180,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved therein and, in addition thereto, such sums as may be required for operation and maintenance of the project.

(b) There is also authorized to be appropriated \$100,000,000 for construction of distribution and drainage facilities for non-Indian lands plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering and cost indices applicable to the types of construction involved therein from September 30, 1968: *Provided*, That the Secretary shall enter into agreements with non-Federal interests to provide not less than 20 per centum of the total cost of such facilities during the construction of such facilities. Notwithstanding the provisions of section 1543 of this title, neither appropriations made pursuant to the authorization contained in this subsection nor revenues collected in connection with the operation of such facilities shall be credited to the Lower Colorado River Basin Development Fund and payments shall not be made from that fund to the general fund of the Treasury to return any part of the costs of construction, operation, and maintenance of such facilities.

(Pub.L. 90-537, Title III, § 309, Sept. 30, 1968, 82 Stat. 893; Pub.L. 97-373, Dec. 20, 1982, 96 Stat. 1817.)

Historical Note

1982 Amendment. Subsec. (b). Pub.L. 97-373 substituted "There is also authorized to be appropriated \$100,000,000 for construction of distribution and drainage facilities for non-Indian lands plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering and cost indices applicable to the types of construction involved therein from September 30, 1968: *Provided*, That the Secretary shall enter into agreements with non-Federal interests to provide not less than 20 per centum of the total cost of such facilities during the construction of such facilities" for "There is also authorized to be appropriated \$100,000,000 for construction of distribution and drainage facilities for non-Indian lands".

Legislative History. For legislative history and purpose of Pub.L. 90-537, see 1968 U.S. Code Cong. and Adm. News, p. 3666. See, also, Pub.L. 97-373, 1982 U.S. Code Cong. and Adm. News, p. 3432.

Subchapter IV-LOWER COLORADO RIVER BASIN DEVELOPMENT FUND

§ 1541. Allocation of costs; repayment

Upon completion of each lower basin unit of the project herein or hereafter authorized, or separate feature thereof, the Secretary shall allocate the total costs of constructing said unit or features to (1) commercial power, (2) irrigation, (3) municipal and industrial water supply, (4) flood control, (5) navigation, (6) water quality control, (7) recreation, (8) fish and wildlife, (9) the replenishment of the depletion of Colorado River flows available for use in the United States occasioned by performance of the Water Treaty of 1944 with the United Mexican States (Treaty Series 994; 59 Stat. 1219), and (10) any other purposes authorized under the Federal reclamation laws. Costs of construction, operation, and maintenance allocated to the replenishment of the depletion of Colorado River flows available for use in the United States occasioned by compliance with the Mexican Water Treaty (including losses in transit, evaporation from regulatory reservoirs, and regulatory losses at the Mexican boundary, incurred in the transportation, storage, and delivery of water in discharge of the obligations of that treaty) shall be nonreimbursable: *Provided*, That the nonreimbursable allocation shall be made on a pro rata basis to be determined by the ratio between the amount of water required to comply with the Mexican Water Treaty and the total amount of water by which the Colorado River is augmented pursuant to the investigations authorized by subchapter II of this chapter and any future Congressional authorization. The repayment of costs allocated to recreation and fish and wildlife enhancement shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213) [16 U.S.C.A. § 4601-12 et seq.]: *Provided*, That all of the separable and joint costs allocated to recreation and fish and wildlife enhancement as a part of the Dixie project, Utah, shall be nonreimbursable. Costs allocated to nonreimbursable purposes shall be nonreturnable under the provisions of this chapter.

(Pub.L. 90-537, Title IV, § 401, Sept. 30, 1968, 82 Stat. 894.)

Historical Note

References in Text. The Federal reclamation laws, referred to in text, include the Act of June 17, 1902, c. 1093, 32 Stat. 388, popularly known as the Reclamation Act, and Act amendatory thereof and supplementary thereto, classified generally to chapter 12 (section 371 et. seq.) of this title. For complete classification of Act June 17, 1902, to the Code, see Short Title note set out under section 371 of this title and Tables volume.

The Federal Water Project Recreation Act, referred to in text, is Pub.L. 89-72, July 9, 1965, 79 Stat. 213, as amended, which is classified principally to part C (section 4601-12 et. seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 4601-12 of Title 16 and Tables volume.

§ 1542. Repayment capability of Indian lands

The Secretary shall determine the repayment capability of Indian lands within, under, or served by any unit of the project. Construction costs allocated to irrigation of Indian lands (including provision of water for incidental domestic and stock water uses) and within the repayment capability of such lands shall be subject to section 386a of Title 25, and such costs that are beyond repayment capability of such lands shall be nonreimbursable.

(Pub.L. 90-537, Title IV, § 402, Sept. 30, 1968, 82 Stat. 894.)

§ 1543. Lower Colorado River Basin Development Fund

(a) Establishment

There is hereby established a separate fund in the Treasury of the United States to be known as the Lower Colorado River Basin Development Fund (hereafter called the "development fund"), which shall remain available until expended as hereafter provided.

(b) Appropriations

(1) All appropriations made for the purpose of carrying out the provisions of subchapter III of this chapter shall be credited to the development fund as advances from the general fund of the Treasury, and shall be available for such purpose.

(2) Except as provided in section 1528(b) of this title, sums advanced by non-Federal entities for the purpose of carrying out the provisions of subchapter III of this chapter shall be credited to the development fund and shall be available without further appropriation for such purpose.

(c) Revenues credited to fund

There shall also be credited to the development fund -

(1) all revenues collected in connection with the operation of facilities authorized in subchapter III of this chapter in furtherance of the purposes of this chapter (except entrance, admission, and other recreation fees or charges and proceeds received from recreation concessionaires), until completion of repayment requirements of the Central Arizona project;

(2) any Federal revenues from the Boulder Canyon and Parker-Davis projects which, after completion of repayment requirements of the said Boulder Canyon and Parker-Davis projects, are surplus, as determined by the Secretary, to the operation, maintenance, and replacement requirements of those projects: *Provided, however, That for the Boulder Canyon project commencing June 1, 1987, and for the Parker-Davis project commencing June 1, 2005, and until the end of the repayment period for the Central Arizona project described in section 1521(a) of this title, the Secretary of Energy shall provide for surplus revenues by including the equivalent of 4½ mills per kilowatthour in the rates charged to purchasers in Arizona for application to the purposes specified in subsection (f) of this section and by including the equivalent 2½ mills per kilowatthour in the rates charged to purchasers in California and Nevada for application to the purposes of subsection (g) of this section as amended and supplemented: Provided further, That after the repayment period for said Central Arizona project, the equivalent of 2½ mills per kilowatthour shall be included by the Secretary of Energy in the rates charged to purchasers in Arizona, California, and Nevada to provide revenues for application to the purposes of said subsection (g) of this section: Provided, however, That the Secretary is authorized and directed to continue the in-lieu-of-tax payments to the States of Arizona and Nevada provided for in section 618a(c) of this title so long as revenues accrue from the operation of the Boulder Canyon project; and*

(3) any Federal revenues from that portion of the Pacific Northwest-Pacific Southwest intertie located in the States of Nevada and Arizona which, after completion of repayment requirements of the said part of the Pacific Northwest-Pacific Southwest intertie located in the States of Nevada and Arizona, are surplus, as determined by the Secretary, to the operation, maintenance, and replacement requirements of said portion of the Pacific Northwest-Pacific Southwest intertie and related facilities.

(d) Use of revenue funds

All moneys collected and credited to the development fund pursuant to subsection (b) and clauses (1) and (3) of subsection (c) of this section and the portion of revenues derived from the sale of power and energy for use in Arizona pursuant to clause (2) of subsection (c) of this section shall be available, without further appropriation, for--

(1) defraying the costs of operation, maintenance, and replacements of, and emergency expenditures for, all facilities of the projects, within such separate limitations as may be included in annual appropriation Acts; and

(2) payments to reimburse water users in the State of Arizona for losses sustained as a result of diminution of the production of hydroelectric power at Coolidge Dam, Arizona, resulting from exchanges of water between users in the States of Arizona and New Mexico as set forth in section 1524(f) of this title.

(e) Appropriation by Congress required for construction of works

Revenues credited to the development fund shall not be available for construction of the works comprised within any unit of the project herein or hereafter authorized except upon appropriation by the Congress.

(f) Return of costs and interest

Moneys credited to the development fund pursuant to subsection (b) and clauses (1) and (3) of subsection (c) of this section and the portion of revenues derived from the sale of power and energy for use in Arizona pursuant to clause (2) of subsection (c) of this section in excess of the amount necessary to meet the requirements of clauses (1) and (2) of subsection (d) of this section shall be paid annually to the general fund of the Treasury to return--

(1) the costs of each unit of the projects or separable feature thereof authorized pursuant to subchapter III of this chapter which are allocated to irrigation, commercial power, or municipal and industrial water supply, pursuant to this chapter within a period not exceeding fifty years from the date of completion of each such unit or separable feature, exclusive of any development period authorized by law: *Provided*, That return of the costs, if any, required by section 616aa-1 of this title shall not be made until after the payout period of the Central Arizona Project as authorized herein; and

(2) interest (including interest during construction) on the unamortized balance of the investment in the commercial power and municipal and industrial water supply features of the project at a rate determined by the Secretary of the Treasury in accordance with the provisions of subsection (h) of this section, and interest due shall be a first charge.

(g) Repayment of costs

All revenues credited to the development fund in accordance with clause (c)(2) of this section (excluding only those revenues derived from the sale of power and energy for use in Arizona during the payout period of the Central Arizona Project as authorized herein) and such other revenues as remain in the development fund after making the payments required by subsections (d) and (f) of this section shall be available (1) to make payments, if any, as required by sections 616aa-1 and 620d-1 of this title, (2) for repayment to the general fund of the Treasury the costs of each salinity control unit or separable feature thereof the costs of measures to replace incidental fish and wildlife values foregone, and the costs of on-farm measures payable from the Lower Colorado River Basin Development Fund in accordance with sections 1595(a)(2), 1595(a)(3), and 1595(b) of this title and (3) upon appropriation by the Congress, to assist in the repayment of reimbursable costs incurred in connection with units hereafter constructed to provide for the augmentation of the water supplies of the Colorado River for use below Lee Ferry as may be authorized as a result of the investigations and recommendations made pursuant to sections 1511 and 1513(a) of this title.

(h) Interest rate

The interest rate applicable to those portions of the reimbursable costs of each unit of the project which are properly allocated to commercial power development and municipal and industrial water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the first advance is made for initiating construction of such unit, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issue.

(i) Annual budgets; submission to Congress

Business-type budgets shall be submitted to the Congress annually for all operations financed by the development fund.

(Pub.L. 90-537, Title IV, § 403, Sept. 30, 1968, 82 Stat. 894; Pub.L. 93-320, Title II, § 205(b)(2), June 24, 1974, 88 Stat. 273; Pub.L. 98-381, Title I, § 102, Aug. 17, 1984, 98 Stat. 1333; Pub.L. 98-569, § 4(f)(2), Oct. 30, 1984, 98 Stat. 2939.)

1984 Amendments Subsec. (b). Pub.L. 98-381, § 102(a), designated existing provisions as par. (1) and added par. (2). Subsec. (c)(1). Pub.L. 98-381, § 102(b), substituted "until completion of repayment requirements of the Central Arizona project;" for "including revenues which, after completion of payout of the Central Arizona project as required herein are surplus, as determined by the Secretary, to the operation, maintenance, and replacement requirements of said project;". Subsec. (c)(2). Pub.L. 98-381, § 102(c), added two provisos, the first relating to the inclusion of the equivalent of 4½ mills per kilowatthour in the rates charged to purchaser in Arizona for application to the purposes specified in subsection (f) of this section and to the inclusion of the equivalent 2½ mills per kilowatthour in the rates charged to purchasers in California and Nevada for application to the purposes of subsection (g) of this section as amended and supplemented, and the second providing that, after the repayment period for said Central Arizona project, the equivalent of 2½ mills per kilowatthour shall be included by the Secretary of Energy in the rates charged to purchasers in Arizona, California, and Nevada to provide revenues for application to the purposes of said subsection (g) of this section. Subsec. (g). Pub.L. 98-569 added "the costs of measures to replace incidental fish and wildlife values foregone, and the costs of on-farm measures" before "payable from".

1974 Amendment. Subsec. (g). Pub.L. 93-320 added cl. (2), and redesignated former cl. (2), authorizing the use of revenues to assist in the repayment of reimbursable costs incurred in connection with units constructed after Sept. 30, 1968, to provide for the augmentation of water supplies of the Colorado River for use below Lee Ferry, as cl. (3).

Legislative History. For legislative history and purpose of Pub.L. 90-537, see 1968 U.S. Code Cong. and Adm. News, p. 3666. See, also, Pub.L. 93-320, 1974 U.S. Code Cong. and Adm. News, p. 3327; Publ. L. 98-381, 1984 U.S. Code Cong. and Adm. News, p. 2479; Pub.L. 98-569, 1984 U.S. Code Cong. and Adm. News, p. 4901.

Cross References

Availability of main stream water at same cost to all users to satisfy stated amount of consumptive use, see section 1525 of this title.

Credit of certain appropriations to Lower Colorado River Basin Development Fund, see section 1528 of this title.

Repayment of costs from-

Development fund of each salinity control unit as modifying provisions for salinity control of Colorado River Basin, see section 1597 of this title.

Funds available to Arizona under this section for cost of excess capacity in Granite Reef aqueduct, see section 1521 of this title.

Salinity control unit costs payable from Lower Colorado River Basin Development Fund, see section 1595 of this chapter.

Transfers to Upper Colorado River Basin Fund from Lower Colorado River Basin Development Fund, see section 620d-1 if this title.

§ 1544. Annual report to Congress

On January 1 of each year the Secretary shall report to the Congress, beginning with the fiscal year ending June 30, 1969, upon the status of the revenues from and the cost of constructing, operating, and maintaining each lower basin unit of the project for the preceding fiscal year. The report of the Secretary shall be prepared to reflect accurately the Federal investment allocated at that time to power, to irrigation, and to other purposes, the progress of return and repayment thereon, and the estimated rate of progress, year by year, in accomplishing full repayment. (Pub.L. 90-537, Title IV, § 404, Sept. 30, 1968, 82 Stat. 896.)

Subchapter V-GENERAL PROVISIONS

§ 1551. Construction of Colorado River Basin Act

(a) Effect on other laws

Nothing in this chapter shall be construed to alter, amend, repeal, modify, or be in conflict with the provisions of the Colorado River Compact (45 Stat. 1057), the Upper Colorado River Basin Compact (63 Stat. 31), the Water Treaty of 1944 with the United Mexican States (treaty Series 994; 59 Stat. 1219), the decree entered by the Supreme Court of the United States in Arizona against California and others (376 U.S. 340), or, except as otherwise provided herein, the Boulder Canyon Project Act (45 Stat. 1057) [43 U.S.C.A. § 617 et seq.], the Boulder Canyon Project Adjustment Act (54 Stat. 774) [43 U.S.C.A. § 618 et seq.], or the Colorado River Storage Project Act (70 Stat. 105) [43 U.S.C.A. § 620 et seq.].

(b) Reports to Congress

The Secretary is directed to —

(1) make reports as to the annual consumptive uses and losses of water from the Colorado River system after each successive five-year period, beginning with the five-year period starting on October 1, 1970. Such reports shall include a detailed breakdown of the beneficial consumptive use of water on a State-by-State basis. Specific figures on quantities consumptively used from the major tributary streams flowing into the Colorado River shall also be included on a State-by-State basis. Such reports shall be prepared in consultation with the States of the lower basin individually and with the Upper Colorado River Commission, and shall be transmitted to the President, the Congress, and to the Governors of each State signatory to the Colorado River Compact; and

(2) condition all contracts for the delivery of water originating in the drainage basin of the Colorado River system upon the availability of water under the Colorado River Compact.

(c) Compliance of Federal officers and agencies

All Federal officers and agencies are directed to comply with the applicable provisions of this chapter, and of the laws, treaty, compacts, and decree referred to in subsection (a) of this section, in the storage and release of water from all reservoirs and in the operation and maintenance of all facilities in the Colorado River system under the jurisdiction and supervision of the Secretary, and in the operation and maintenance of all works which may be authorized hereafter for the augmentation of the water supply of the Colorado River system. In the event of failure of any such officer or agency to so comply, and affected State may maintain an action to enforce the provisions of this section in the Supreme Court of the United States and consent is given to the joinder of the United States as a party in such suit or suits, as a defendant or otherwise.

(Pub.L. 90-537, Title VI, § 601, Sept. 30, 1968, 82 Stat. 899.)

§ 1552. Criteria for long-range operation of reservoirs

(a) Promulgation by Secretary; order of priorities

In order to comply with and carry out the provisions of the Colorado River Compact, the upper Colorado River Basin Compact, and the Mexican Water Treaty, the Secretary shall propose criteria for the coordinated long-range operation of the reservoirs constructed and operated under the authority of the Colorado River Storage Project Act [43 U.S.C.A. § 620 et seq.], the Boulder Canyon Project Act [43 U.S.C.A. § 617 et seq.], and the Boulder Canyon Project Adjustment Act [43 U.S.C.A. § 618 et seq.]. To effect in part the purposes expressed in this paragraph, the criteria shall make provision for the storage of water in storage units of the Colorado River storage project and releases of water from Lake Powell in the following listed order of priority:

(1) releases to supply one-half the deficiency described in article III(c) of the Colorado River Compact, if any such deficiency exists and is chargeable to the States of the Upper Division, but in any event such releases, if any, shall not be required in any year that the Secretary makes the determination and issues the proclamation specified in section 1512 of this title;

(2) releases to comply with article III(d) of the Colorado River Compact, less such quantities of water delivered into the Colorado River below Lee Ferry to the credit of the States of the Upper Division from other sources; and

(3) storage of water not required for the releases specified in clauses (1) and (2) of this subsection to the extent that the Secretary, after consultation with the Upper Colorado River Commission and representatives of the three Lower Division States and taking into consideration all relevant factors (including, but not limited to, historic streamflows, the most critical period of record, and probabilities of water supply), shall find this to be reasonably necessary to assure deliveries under clauses (1) and (2) without impairment of

annual consumptive uses in the upper basin pursuant to the Colorado River Compact: *Provided*, That water not so required to be stored shall be released from Lake Powell: (i) to the extent it can be reasonably applied in the States of the Lower Division to the uses specified in article III(e) of the Colorado River Compact, but no such releases shall be made when the active storage in Lake Powell is less than the active storage in Lake Mead, (ii) to maintain, as nearly as practicable, active storage in Lake Mead equal to the active storage in Lake Powell, and (iii) to avoid anticipated spills from Lake Powell.

(b) Submittal of criteria for review and comment; publication; report to Congress

Not later than January 1, 1970, the criteria proposed in accordance with the foregoing subsection (a) of this section shall be submitted to the Governors of the seven Colorado River Basin States and to such other parties and agencies as the Secretary may deem appropriate for their review and comment. After receipt of comments on the proposed criteria, but not later than July 1, 1970, the Secretary shall adopt appropriate criteria in accordance with this section and publish the same in the Federal Register. Beginning January 1, 1972, and yearly thereafter, the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report describing the actual operation under the adopted criteria for the preceding compact water year and the projected operation for the current year. As a result of actual operating experience or unforeseen circumstances, the Secretary may thereafter modify the criteria to better achieve the purposes specified in subsection (a) of this section, but only after correspondence with the Governors of the seven Colorado River Basin States and appropriate consultation with such State representatives as each Governor may designate.

(c) Powerplant operations

Section 7 of the Colorado River Storage Project Act [43 U.S.C.A. § 620f] shall be administered in accordance with the foregoing criteria.

(Pub.L. 90-537, Title VI, § 602, Sept. 30, 1968, 82 Stat. 900.)

§ 1553. Upper Colorado River Basin; rights to consumptive uses not to be reduced or prejudiced; duties and powers of Commission not impaired

(a) Rights of the upper basin to the consumptive use of water available to that basin from the Colorado River system under the Colorado River Compact shall not be reduced or prejudiced by any use of such water in the lower basin.

(b) Nothing in this chapter shall be construed so as to impair, conflict with, or otherwise change the duties and powers of the Upper Colorado River Commission.

(Pub.L. 90-537, Title VI, § 603, Sept. 30, 1968, 82 Stat. 901.)

Cross References

Construction of Grand Canyon National Park Enlargement Act with this section, see section 228h of Title 16, Conservation.

§ 1554. Federal reclamation laws

Except as otherwise provided in this chapter, in constructing, operating, and maintaining the unites of the projects herein and hereafter authorized, the Secretary shall be governed by the Federal reclamation laws (act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) to which laws this chapter shall be deemed a supplement.

(Pub.L. 90-537, Title VI, § 604, Sept. 30, 1968, 82 Stat. 901.)

Notes of Decisions

1. Sales of excess power-

Under section 1523 of this title, direction to Secretary of the Interior to recommend the most feasible plan for acquiring power does not comprehend right to sell excess power in manner that is in conflict with Reclamation Act, as amended, section 371 et seq. of this title, even though Secretary may seek to de-nominate such sales as part of the most feasible plan which he otherwise has authority to put into effect. Arizona

§ 1555. Federal Power Act inapplicable to Colorado River between Hoover Dam and Glen Canyon Dam

Part I of the Federal Power Act [16 U.S.C.A. § 791a et seq.] shall not be applicable to the reaches of the main stream of the Colorado River between Hoover Dam and Glen Canyon Dam until and unless otherwise provided by Congress.

(Pub.L. 90-537, Title VI, § 605, Sept. 30, 1968, 82 Stat. 901.)

Historical Note

References in Text. The Federal Power Act, referred to in text, is Act June 10, 1920, c. 285, 41 Stat. 1063, as amended.

Part I of the Federal Power Act is classified generally to subchapter I (section 791a et seq.) of chapter 12 of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables volume.

§ 1556. Definitions

As used in this chapter, (a) all terms which are defined in the Colorado River Compact shall have the meanings therein defined;

(b) "Main stream" means the main stream of the Colorado River downstream from Lee Ferry within the United States, including the reservoirs thereon;

(c) "User" or "water user" in relation to main stream water in the lower basin means the United States or any person or legal entity entitled under the decree of the Supreme Court of the United States in Arizona against California, and others (376 U.S. 340), to use main stream water when available thereunder;

(d) "Active storage" means that amount of water in reservoir storage, exclusive of bank storage, which can be released through the existing reservoir outlet works;

(e) "Colorado River Basin States" means the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(f) "Western United States" means those States lying wholly or in part west of the Continental Divide; and

(g) "Augment" or "augmentation", when used herein with reference to water, means to increase the supply of the Colorado River or its tributaries by the introduction of water into the Colorado River system, which is in addition to the natural supply of the system.

(Pub.L. 90-537, Title VI § 606, Sept. 30, 1968, 82 Stat. 901.)